

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Biomedical Device Consultants &
Laboratories of Colorado, LLC,

Civil File No. 17-cv-03403
DWF/SER

Plaintiff,

vs.

**JOINT MOTION FOR CONTINUED
AND FURTHER SEALING**

TA Instruments - Waters LLC,

Defendant.

Documents have been filed under temporary seal in connection with the Plaintiff's Motion for Preliminary Injunction. Specifically, the unredacted copy of Plaintiff's Memorandum of Law in Support of its Motion for Preliminary Injunction, ECF No. 36, and the unredacted copy of the Declaration of Craig Weinberg in Support of Motion for Preliminary Injunction, ECF No. 39, were both filed under seal. Pursuant to Local Rule 5.6, the parties submit this Joint Motion Regarding Continued Sealing.

Plaintiff's Memorandum of Law in Support of its Motion for Preliminary Injunction, ECF No. 36, discusses, among other things, the market for the prosthetic heart valve testing systems that are at issue in this case. Included in this discussion is information regarding the number of systems sold by Defendant TA Instruments – Waters LLC ("TA"), the pricing of TA's system, the revenue generated by sales of TA's system, the number of systems sold by Plaintiff Biomedical Device Consultants & Laboratories of Colorado, LLC ("BDC"), and the pricing of BDC's system. In the market, both BDC and TA negotiate sales terms with potential customers on a case by

case basis. BDC's and TA's sales figures, revenue, and pricing are not generally known and public disclosure of this information would place BDC and/or TA at a disadvantage in these sales negotiations. Therefore, the parties believe that ECF No. 36 should continue to be sealed.

The Declaration of Craig Weinberg in Support of Motion for Preliminary Injunction, ECF No. 39, contains similar information as Plaintiff's memorandum regarding sales and pricing. Therefore, for the same reasons that BDC believes that ECF No. 36 should continue to be sealed, the parties believe that ECF No. 39 should continue to be sealed as well.

During the meet and confer process, the parties identified additional redactions to documents submitted in conjunction with the preliminary injunction motion that would assist in preventing disclosure of the information discussed in this motion. The parties propose additional redactions of sentences in ECF No. 36 that were originally redacted in part. The additional redactions are illustrated in the attached version of ECF No. 36. The parties hereby move that the attached version of ECF No. 36 be substituted for the current version of ECF No. 36.

| DKT. NO. | DESCRIPTION OF DOCUMENT | MARK "X" IN APPLICABLE COLUMN | | | NONPARTY THAT DESIGNATED DOC. CONFIDENTIAL (IF ANY) | REASON WHY DOCUMENT SHOULD REMAIN SEALED OR BE UNSEALED |
|----------|---|---|---------------------------------------|------------------|---|---|
| | | Parties Agree Doc. Should Remain Sealed | Parties Agree Doc. Should Be Unsealed | Parties Disagree | | |
| 36 | Plaintiff's Memorandum of Law in Support of Motion for Preliminary Injunction | X | | | | Contains confidential commercial information |

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|----|---|---|--|--|--|--|
| 39 | Declaration of Craig Weinberg in Support of Motion for Preliminary Injunction | X | | | | Contains confidential commercial information |
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Dated: January 29, 2018

DORSEY & WHITNEY LLP

By /s/ Forrest Tahdooahnippah

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January 29, 2018

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